



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

(petitioner)
(petitioner' address)

DECISION

MDV-66/46809

PRELIMINARY RECITALS

Pursuant to a petition filed November 13, 2000, under Wis. Stat. §49.45(5) and Wis. Adm. Code §HA 3.03(1), to review a decision by the Washington County Dept. of Social Services in regard to Medical Assistance (MA), a hearing was held on December 1, 2000, at West Bend, Wisconsin.

Based upon the agreement of the parties, no issues remain for determination by this examiner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

(petitioner)
(petitioner' address)

Respondent:

Wisconsin Department of Health and Family Services
Division of Health Care Financing
1 West Wilson Street, Room 250
P.O. Box 309
Madison, WI 53707-0309

By: Maxine Ellis, ESS
Washington County Dept Of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

EXAMINER:

Kenneth P Adler
Administrative Law Judge
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (SSN xxx-xx-xxxx, CARES #xxxxxxxxxx) is a resident of Washington County.

2. The county discontinued petitioner's MA effective 11/01/00 based upon an alleged divestment of \$46,703.95.
3. On 11/14/00 the county agency issued a notice informing petitioner it had calculated an MA overpayment which it was seeking to recover. The overpayment was for nursing home costs for the period June through October 2000 in the amount of \$21,065.84. Exhibit 9

DISCUSSION

The issues for determination were: (1) did petitioner divest \$46,703.64 making her ineligible for MA; and (2) was petitioner overpaid MA in the amount of \$21,065.84 which is subject to recovery?

At hearing petitioner's representative and the county agency reached a stipulated agreement regarding the first issue. The parties agreed the divestment amount would be reduced to \$35,003.95 resulting in a penalty period of 8 months commencing March 1, 2000. According to that determination, petitioner was eligible for nursing home MA again effective November 1, 2000. The county agency agreed to open petitioner's nursing home MA effective that date.

Petitioner's representative withdrew his appeal request regarding the second issue. He explained he was not prepared to address that issue at this time and will review the matter further. If he decides to pursue the overpayment recovery issue, he will file another appeal

CONCLUSIONS OF LAW

Based upon the agreements of the parties, no issues remain for determination by this examiner.

NOW, THEREFORE, it is

ORDERED

That the matter be remanded to the county agency with the following instructions: (1) change the divestment amount from \$46,703.64 to \$35,003.95; and (2) reopen petitioner's institutional MA coverage effective 11/01/00. These actions are to be taken within ten (10) days of the date this decision is signed.

As to the overpayment recovery, that matter is dismissed based upon the withdrawal of that issue by petitioner's representative on the record.

REQUEST FOR A NEW HEARING

This is a final fair hearing decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision. To ask for a new hearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875.

Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST."

Your request must explain what mistake the examiner made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

Your request for a new hearing must be received no later than twenty (20) days after the date of this decision. Late requests cannot be granted. The process for asking for a new hearing is in sec. 227.49 of the state statutes. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed no more than thirty (30) days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

Appeals for benefits concerning Medical Assistance (MA) must be served on Department of Health and Family Services, P.O. Box 7850, Madison, WI, 53707-7850, as respondent.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for Court appeals is in sec. 227.53 of the statutes.

Given under my hand at the City of
Madison, Wisconsin, this _____ day
of _____, 2001.

Kenneth P Adler
Administrative Law Judge
Division of Hearings and Appeals
126/KPA

cc: WASHINGTON COUNTY DEPT OF SOCIAL SERVICES
DHFS - Susan Wood